

OCT 16 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ADRIAN ORTEGA-DIAZ,

Defendant - Appellant.

No. 11-10486

D.C. No. 2:08-cr-00357-WBS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Adrian Ortega-Diaz appeals from his guilty-plea conviction and 135-month sentence for conspiracy to possess with intent to distribute over 50 grams of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846; and conspiracy

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

to manufacture over 1,000 plants of marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and 846. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Ortega-Diaz's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Ortega-Diaz the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal. We dismiss in light of the valid appeal waiver. See *United States v. Watson*, 582 F.3d 974, 988 (9th Cir. 2009).

Counsel's motion to withdraw is **GRANTED**.

DISMISSED.